

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

DAVID C. FORNEY,

Plaintiff,

V.

HINEMAN, Governor, and KEITH  
COUNTY, NEBRASKA,

Defendants.

4:09CV3033

# MEMORANDUM AND ORDER

This matter is before the court on Plaintiff's Motion for Leave to Appeal In Forma Pauperis. (Filing No. 58.) On January 11, 2011, the court gave Plaintiff 30 days to submit an affidavit to show excusable neglect or good cause for failing to file a timely notice of appeal. (Filing No. 60.) In doing so, the court warned Plaintiff that if he failed to show excusable neglect or good cause by February 11, 2011, his appeal would not be processed. (*Id.*) Plaintiff did not respond. (*See* Docket Sheet.)

IT IS THEREFORE ORDERED that:

1. Plaintiff's Motion for Leave to Appeal In Forma Pauperis (filing no. [58](#)) is denied.
2. Plaintiff is not entitled to proceed IFP on appeal and the appeal is dismissed. The Clerk of the court shall not process the appeal to the Eighth Circuit.
3. The Clerk of the court is directed to forward a copy of this Memorandum and Order to the parties and to the Eighth Circuit Court of Appeals.

DATED this 22<sup>nd</sup> day of February, 2011.

BY THE COURT:

*Richard G. Kopf*

United States District Judge

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